2605.

SUPREME COURT OF THE UNITED STATES.

No. 186.

THE UNITED STATES, APPELLANTS,

v.

THOMAS W. SUTHERLAND, GUARDIAN OF VICTORIA, ISABEL, MIGUEL, & HELINA, MINOR CHILDREN OF MIGUEL DE PEDRORENO, DECEASED.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

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Transcript of the proceedings in Case No. 262. Thomas W. Sutherland, Guardian, &c., Claimant, *v.* The United States, Defendant, for the place named "El Cajon."

Office of the Board of Commissioners to Ascertain and Settle the Private Land Claims in the State of California.

Be it remembered, That on this tenth day of June, Anno Domini one thousand eight hundred and fifty-two, before the Commissioners to ascertain and settle the private land claims in California, sitting as a Board, in the City of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of Thomas W. Sutherland, Guardian, &c., for the place named "El Cajon," was presented and ordered to be filed and docketed with No. 262, and is as follows, to wit:

(Vide page 3 of this transcript.)

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

Los Angeles, Oct. 14th, 1852.

In case No. 262, Thomas W. Sutherland, Guardian, &c., for the place named "El Cajon," the deposition of Santiago Arguello, a witness in behalf of the claimant, taken before Commissioner Hiland Hall, with documents marked H. H. C., No. 2, E. and F. annexed thereto, was filed.

(Vide page 5 of this transcript.)

San Francisco, September 13th, 1853.

In the same case, the deposition of J. J. Warner, a witness on behalf of the claimant, taken before Commissioner Thompson Campbell, was filed.

(Vide page 7 of this transcript.)

San Francisco, September 16th, 1853.

Case No. 262 called, submitted on briefs on both sides, and taken under advisement by the Board.

San Francisco, March 14th, 1854.

In the same case Commissioner Thompson Campbell delivered the opinion of the Board confirming the claim.

(Vide page 43 of this transcript.)

San Francisco, August 15th, 1854.

In the same case, on motion of the United States Law Agent, the following order was made, to wit:

(Vide page 49 of this transcript.)

Petition.

To the Honorable, the Board of Commissioners for ascertaining and settling private land claims in the State of California.

Victoria, Isabel, Miguel, and Helena, minor children of Miguel de Pedrorena, the former a naturalized citizen, and the latter a native of the State of California, both late of the County of San Diego, in said State, deceased, respectfully represent to your Honorable Board, that they claim, as said minor children, a certain tract of land, called El Cajon, containing eleven sitios de ganado mayor, situated in the County of San Diego, in said State of California; that they claim the same, as aforesaid, in fee, by virtue of a grant made to Mrs. Maria Antonia Estudillo de Pedroreno, under the authority of the Mexican Government, by Pio Pico, Governor of the State of California, bearing date the 23d day of September, 1845, and approved by the Territorial Deputation on the 3d day of October, 1845. Your petitioner would further represent, that judicial possession of said lands was given to the said grantee on the 11th day of September, 1846, and the boundaries thereof designated and defined; and that the said minor children have, ever since the death of their parents, been in peaceable possession thereof, and that they have no knowledge of any interfering claim to the said Rancho del Cajon.

Your petitioners present herewith the Espediente, containing the documentary evidence of the claim to said land in the Spanish language, together with a translation of the same, and will make further proof of title if required by the Board.

Your petitioner pray your Honorable Board to take into consideration his claim, in his capacity of guardian, to the said tract of land, and decree their said title to be valid, and confirm the same, and your petitioner will ever pray.

SUTHERLAND & CARR,
Attorneys for Petitioners.

Filed in office, June 10th, 1852.

GEO. FISHER,
Secretary.

Deposition of S. Arguello.

Los Angelos, October 14th, 1852.

On this day, before me, Hiland Hall, one of the Commissioners for ascertaining and settling private land claims in the State of California, personally appeared Santiago Arguello, a witness, produced on behalf of Thomas W. Sutherland, Guardian of Victoria, Isabel Miguel, and Helena, minor children of Miguel de Pedrorena and

Maria Antonia E. de Pedrorena, both deceased, the claimants of the Rancho of El Cajon, which is numbered 262 on the Docket of said Commissioners, who, being duly sworn, testified as follows (the Associate Law Agent being notified, and attended):

Question First. What is your name, age, and place of residence?

Answer. My name is Santiago Arguello; I am sixty years of age, and reside near the boundary-line between the State of California and Lower California, in Mexico,—the Rancho of Si Juan upon which I reside, being divided by said line.

Question Second. Do you know the handwriting and signature of Pio Pico, Jose Mn. Covarrubias, S. Arguello, Santiago E. Arguello, Jose A. Gongora, and Jose Antonio Arguello?

Answer. I know the handwriting and signatures of all of them, having seen all of them write their names very frequently. S. Arguello is my own name, and Santiago E. Arguello and Jose Antonio Arguello are my sons.

Question Third. Look at the document now shown you, marked E, and filed herewith as part of this petition, purporting to be a grant of the Rancho of El Cajon, and say, whether said grant, purporting to be signed by Pio Pico, Jose Ma. Covarrubias, and youself, is genuine, and the signatures thereto genuine.

Answer. I know that my signature is in my own proper handwriting, and that the other signatures are also genuine. The document is a genuine one.

Question Fourth. Look at the document now shown you, purporting to be an Act of Approval of the Departmental Assembly of California, marked F, and filed herewith as part of this petition, and say, whether the signatures of Pio Pico and Jose Ma. Covarrubias are genuine.

Answer. The document and signatures are both genuine.

Question Fifth. Look at the document now shown you, marked C, No. 2, and filed herewith as part of this petition, and say, whether the signatures of Santiago E. Arguello, Jose A. Gorgora, and Jose Antonia Arguello are genuine, or not.

Answer. I know them all to be positively genuine.

Question Sixth. What do you know concerning the occupation of the Rancho El Cajon by the late Maria Antonia E. de Pedrorena, the original grantee?

Answer. I know that she settled upon the rancho, with her husband, in the year one thousand eight hundred and forty-five. They built houses, and corrals for the stock, upon the rancho, and occupied the land, with their family and cattle, since that time until the time of their death, and have annually raised large crops therefrom.

Question Seven. When did Maria Antonia E. de Pedrorena die?

Answer. She died in the spring of the year one thousand eight hundred and fifty-one. Her husband, Don Miguel Pedrorena, died on the last of March (1850), eighteen hundred and fifty.

(Question by Law Agent.)

Question First. Is the land referred to as the Cajon within ten leagues of the coast?

Answer. I think a portion of the rancho is within ten leagues of the sea, and the other portion beyond that distance.

Question. Do you know how much land was cultivated, and the quantity of stock placed upon said rancho by the original grantee?

Answer. I do not positively know what numher; but I know they had cattle and sheep there, and raised large quantities of grain. It was one of the best-cultivated ranchos in the country about San Diego, during the life of the original grantee.

S. ARGUELLO.

Sworn and subscribed before me,

HILAND HALL,
Commissioner.

Filed in office Oct. 14th, 1852.

GEO. FISHER,
Secretary.

Deposition of J. J. Warner.

Office of Commissioners of Land Claims in California.

This day, before Commissioner Thompson Campbell, came J. J. Warner, a witness in behalf of claimant, Thomas W. Sutherland, Guardian, &c., No. 262, who, after being duly sworn, deposeth as follows:

What is your name, age, and place of residence?

My name is J. J. Warner, my age is forty-five, and I reside in San Diego.

Do you know if Maria Antonio Estudillo de Pedrorena is dead; and if so, when did she die?

I know she is dead. I think she died in the summer of 1851.

Did she bear any children, and what were their names?

She left four children, Victoria, Isabel, Miguel, and Helena.

J. J. WARNER.

Law Agent (associate) present.

Sworn and subscribed before me, the 13th day of September, 1853.

THOMPSON CAMPBELL,
Commissioner.

It is hereby stipulated that this deposition may be read in evidence, in Case No. 332.

Filed in office September 13, 1853.

GEORGE FISHER,
Secretary.

[1 S. D. K.] *B. Espediente.*

1844.

Espediente promovido por Da. Maria Antonio Estudillo de Pedrorena, en solicitude del terreno nombrado

EL CAJON.

467.

Exmo Sor. Gobernador:

[2 S. D. K.] Narcisso Botello de esta vecuidad, ante V. E. con el respeto debido y en los terminos mas conformes me presento y digo: que por carta particular qe. de Sn. Diego me derize el Sor. Dn. Miguel de Pedrorena, entre otras cosas, me hace encargo de tramites ante V. E. a nombre de su Sna. Esposa Da. Ma. Anta. Estudillo, el adjunto expedte. promovido in solicitud del paraje nombrado El Cajon perteneciente a la Mision del citado Sn. Diego: en tal virtud deseoso de obsequiar los encargos de mi amigo, suplico a V. E. se sirva tomar en consideracion los buenos informes qe. en dho expedte. constan en fabor de la Sra. Estudillo, y declararle la propiedad de el, con cuanta mas razon, cuanto que a frece dar a la expresada mision alguna cantidad como pr. ria de gratificacion, apesar de hallarse valdio el parage referido, pues aungue en el informe de la Secreto. de Gobierno fha 4 de Dbie del ano ppdo. se hace referencia de un titulo provicional sobre el mismo terreno, dado el Sor. Dn. Manuel Dias, este parace, y aun se debe crur asi, que carecia de los requisitos de la ley como se ve bien claro, tanto pr. el informe de la mencionada Secreto. cuanto pa. los del Padre Mtro: y alcalde de

[3 S. D. K.] San Diego, qee en unguno de ellos aparace noticia de haberse expeditado la solicitud del Sr. Dias (si es qe. la hubo) conforme este prevenido.

Aparece igualmente en el referido expediente un decreto del Gobernador anterior de V. E. relativo a que cuando ambos (este en Dn. Miguel Pedrorena y Dn. Manuel Dias) pueden hallarse juntos en este Departmento, comparescan ante el Gobierno a deducir sus dros, quisa a virtud de hallarse ausente el ultimo; mas como hasta hay son pasadas yo seis meses y el Sor. Dias aun no ha vuelto, cuya espera tan dilitatado no puede menos de serle grabosa a la parte interesada pa. estar pendiente de su resultado ocasionandose de ello, no salo el perguicio particular sino el gral, o mejor dicho, la requesa nacional pr. hacerse perder trempo a un terreno que debia hacerse producir, espero del celo y acreditada justificacion de V. E. se sirva pulsar estas rasones y determina como llevo pedido pr. crurlo ase de justicia: teniendo a bien admiterme en este papel comun por falta del sellado respectivo.

NARCISSO BOTELLO.

Angeles, Junio 4, de 1845.

[4 S. D. K.]

Monterey, Dbre. 4, de 1844.

Yufe. el S. Sno. del Despacho Michelta.

Exmo. Senor.

Maria Antonio Estudillo de Pedroreno aveciudada en este Puerto Ante V. E. me presento como el derecho melo permete, esponiendo que hallandome con una cantidad considerable de ganado mayor, Lunar y Cabballada y Carreciendo deun terreno pr. el fomento y adelanta de estos, teniendo el consentimente debido de mi espaso D. Miguel Pedrorena pa. solicitor de la superioridad la propiedad de un sitio para el fin indicado, a V. E. pido y soplico a bien concedermo el parage conocido con el nombre del cajon perteneciente a la Mission de Sn. Diego, cuyo parage en el dia ocupa la Mission con una corta cantidad de bienes de campo; acompanando en esta un informe del V. R. P. Fr. Vicente T. Olibas. Mtro Actual de la dha Mision y en Caryado de las temporalidades de la misma, y del Sor Alcalde to. de este Pueblo, todo con el fin de cortar demara en los tramiter, y el de que si V. E. acsediere a me suplica tenga abien estenderme el titulo de propiedad correspondiente. Por tanto a V. E. pido y suplico sedigno, acsedor a mi solicitud de la que recevire gracia—no a companando el diseno delterreno por no tenerto concluida. el qe. ofresco a companar sirviendose admitir la presente

[5 S. D. K.] solicitud en este papel comun por falta del Sellado que corresponde protestando no ser de Malicia, &a. Pto. de S. Diego, 11 de Noviembre del 1844, Ma. Anto. Estudillo de Pedrorena.

Exmo Sor Gobenador.

Segun los buenos informes que se acompanan a este espediente parac tener merito para que se le conceda el terreno que pretende a la Sra. Da. Ma. Anta. Estudillo Pedrorena, y mas cuando puede dejar esta Senora a beneficio de la Mision de S. Diego la cantidad que esta le a dueda a su esposo D. Mizuel Pedrorena que aunque no se a cuanto lleyara su importe, pero es lo unico con que se le podra payar segun informa el R. P. Olibas. El inconveniente que se puede presentar para que se ejecute la concesion que se pretende es, que a Dn. Manuel Dias se le ha dado un despacho provincial del mismo

[6 S. D. K.] terreno, y como este Senor, no se halla aqui no se le podra corres traslado de este expediente para ver las ventajas que se podran sacar a beneficio de la Mision, por ser la posudora del terreno; pera la superior disposicion de V. E. sera lo que Mejor Convenza.

Monterey, cuatro de Diciembre de mil ochocientos cuarenta y cuatro.

MANL. JIMENO.

Monterey, Dbre. 4, de 1844.

Teniendo derecho, que alegar los S. S. Dias y Pedroreno a un

mismo terreno, Cuando Ambos puedan hallarse juntos en el pais— occuriran a deducirlos ante este superior Gobierno Departamental pa. atenderlos en justicia.

MICHELTORENA.

[7 S. D. K.]

Mision de Sn. Diego, 11 de Noviembre, de 1844.

En cuanto a la solicitud que hace Da. Ma. Anta. Estudillo de Pedrorena para consequir la propiedad del parage del Caxon perteneciente a esta Mision de mi eargo, devo decir que el sitio, que solicita, esta ocupado pr. la Mision con una corta cantidad de bienes de campo; y en caso de cederse deve ser preferida la que solicita, por que su esposo, siempre que la he ocupado ha contribuido al sosten de la Mision, y que se le puede conceder en cambio lo que la Mision, le adenda, que es lo unico con que puede pazar sin perjuicio, por que se compremete la solicitante a no impedir que sizan endho sitio los bienes de la Mision.

En Cuanto tenzo que informa en atencion a la presente solicitud, dada en la misma Mision en dho dia, mes y ano en este papel comun por falta del Sellado que corresponde.

FR. VICENTE P. OLIBAS.

El abajo firmado Alcalde to. de este Pueblo y a peticion de Dn. Ma. Anto. Estudillo de Pedrorena certifico que el parage de la Mision de Sn. Diego llamado el Cajon esta por ahora ocupado con un corto numero de ganado de la Mision y que nada puede perjudicarla el que se la concedan a la solicitante mediante que no pretende impedis a la Mision, que segan sus bienes en dho Rancho siendo pa. otra parte muy ventajosa que se situen en la inmediacion personas que tengan bienes para que floresca de nueve este punto.

Dias y libertad Sn. Diego, 12 de Noviembre de 1844.

JUAN MA. MARRON.

Here follows a sketch or rough map marked

[8 S. D. K.]

(For map, see original, page 13.)

Angeles, Setiembre 12, de 1845.

Exmo Sor Gobernador.

Agreguese el espediente promovido pa. Dna. Maria Antonia Estudillo de Pedrorena en solicitud del Terreno del Cajon.

Manuel Dias, de este veciudad ante V. E. con el respecto debido parace y dice, que allandose el Rancho del "Cajon," demasiado dictante del lugar mi residencia y considerando que a la Sra. Da. Ma. Anta. Estudillo de Pedrorena que vive en S. Diego le es mas util poseer dicho terreno, le cedo todo el derecho que a el tengo ya sea como primer solicitante o ya como propietario en virtud del titulo que le Sor. General Micheltorena me otorgo: siempre que el Superior Gobierno del Departmento se sirva concederme algun otro terreno que

[10 S. D. K.] yo solicitare y sea mas conveniente para rin en lo que recibire gracia y justicia &a Monterey, Agosto 10, 1845.

MANL. DIAS.

No hay Papel Sellado.

Angeles, Setiembre 23, de 1845.

Vista la solicitud con que da principio este espediente, los informes del R. P. Ministro de la Mision de San Carlos y Alcalde to. del Puerto del mismo nombre, la cesion que hace Dn. Manuel Dias a favor de la parte interesada del derecho que tener pueda al terreno que se pretende, [11 S. D. K.] con todo lo demas que se tulo presente y ver conomo, de conformidad con la ley de 18 de Agosto de 1824 y reglamento de 21 de Noviembre de 1828, declaro a Da. Maria Antonia Estudillo de Pedrorena duena del terreno Nombrado "Cajon" inmediate a la predicha Mision de Sn. Diego y demostrado en el deseno respectivo, con la condicion de que la agraciada payara a Dn. Miguel de Pedrorena la cantidad de pesos que dicha Mision le Adenda, y no perjudicara los bienes de campo que esta tiene actualmente en el terreno que se le concede y los que naturalmente vazan procreando. Libresele el titulo cor- [12 S. D. K.] respondiente, y reservese el espediente para someterlo a la aprobacion de la exma Asemblea Departmental. Pio Pico, Gobernado Interino del Departamento de las Californias asi lo mande, decrete y firme de que doy fee.

PIO.

Exmo Sor.

La Comision de terrenos Valdios habiendo visto y examinado con la detension posible las diligencias y averignaciones constante en el presente Espediente, encuentra qe. estan practicadas con total arreglo a las leyes de la materia y qe. fueron suficientes pa. qe. el Supr. Gobo. en uso de sus facultades adjudicara en propiedad el parage del Cajon de la comprehension de Sn. Diego, en favor de la Sra. Da. Ma. Antonia Estudillo de Pedrorena; en tal virtud a la deliberacion de V. E. sugeta las siguientes proposicions.

1o. Se aprueba la concesion hecha pa el Superior Gobierno de este [13 S. D. K.] Departmento, del parage nombrado el Cajon en favor de la Sra. Da. Maria Antonia Estudillo de Pedrorena, en titulo librado fecha 23 del corriente mes, de entera conformidad con la ley de 18 de Agosto de 1824 y el Reglamento de 21 de Noviembre de 1828.

2a. La interesada cuidara de cumplir con los requisitos previnidos en el Arto. 12 del citado reglamento de 828 pa. poder disponer libremente de su propiedad en esta parte.

Sala de Comisiones, ciudad de Los Angeles, Setiembre 30, de 1845.

NARCISO BOTELLO.

FRANCISCO DE LA GUERRA.

Angeles, Octubre 3, de 1845.

En sesion de hay aprobaron por la Exma Asamblea Departmental

las dos proposiciones con que concluye el antecedente original al Exmo Sor. Gobernador para los fines convenientes.

AGUSTIN OLVERA,
Srio.

PIO PICO, President.

[14 S. D. K.]

En 3 de Octubre se libro copia a la interesada.

Queda tomada ragon de este titulo en el libro á que corresponder.

Office of the Surveyor-General of the United States for California.

I, Samuel D. King, Surveyor-General of the United States for the State of California, and as such now having in my office, and under my charge, a portion of the Archives of the former Spanish and Mexican territory or Department of Upper California, do hereby certify that the fourteen preceding and hereunto annexed pages of tracing paper, numbered from one to fourteen inclusive, and each of which is verified by my initials (S. D. K.), exhibit true and accurate copies of certain documents on file and forming part of the said Archives in this office.

In testimony whereof I have hereunto signed my name officially, and affixed my private seal (not having a seal of office) at the city of San Francisco, Cal., this 15th day of May, 1852.

(Signed) SAML. D. KING,
Surv.-Genl. Cal.

Filed in office, June 15th, 1852.

(Signed) GEO. FISHER,
Secy.

Translation of Expediente.

(1844.)

Espediente, had at the instance of Da. Maria Antonia Estudillo de Pedrorena, soliciting a tract of land called "El Cajon."

467.

Most Excellent Senor Governor:

I, Narciso Botello, of this vicinity, before your Excellency, with due respect, and in form most conformable to law, present myself, and state that by a private letter, that from San Diego, Senor Don Miguel de Pedrorena directed to, amongst other matters, he requested me to transmit to your Excellency, in the name of his wife, Donna Antonia Maria Estudillo, the annexed Espediente, carried on in the petition of the place called El Cajon, belonging to the Mission of San Diego, therefore being desirous of obeying the instructions of a friend, I supplicate that your Excellency will please to take into consideration the reports as appear in said Espediente, in favor of

Madame Estudillo, and declare to her the ownership thereof, inasmuch as she proposes to give to the Mission a certain sum by way of compensation, notwithstanding that the aforesaid place is now lying vacant; for although in the information from the Secretary of the Government, dated the 4th of December of last year, reference is made of a provisional title upon the same land, given to Mr. Manuel Diaz, this appears and should be thought thus, that it wanted the requisites of the law; and it is very clearly shown, both from the information received from the mentioned secretary, and of the Padre Minister and Alcalde of San Diego, as in the name of them it appears that the petition of M. Dias was expedeleso (if he ever had one).

There appears also in the Expediente annexed a decree of the Governor, who preceded your Excellency, as to when both (that is, Don Miguel Pedrorena and Don Manuel Diaz) might find themselves together in this department, they should appear before this Government to plead their rights; perhaps it was in consequence of the latter being absent; but as at present there has already passed six months, and said Dias has not returned, whose delay cannot do less than be grievous to the party interested for waiting the result, she being desirous to have the lands, not only for particular ends, but for most generally, or, properly speaking, to enrich the nation, as time is lost to land which should be made to produce, I hope from the zeal and accredited justification of your Excellency you will order these reasons proven and determined, as I have requested, thinking that it would be but just; accepting the admission of this upon common paper, there being no stamped as corresponds.

NARCISSO BOTELLO.

Angeles, June 4th, 1845.

Most Excellent Sir:

Maria Antonia Estudillo de Pedroreno, a resident of this Port, before your Excellency represents, as right permits me, setting forth, that being possessed of a considerable number of cattle, and sheep, and horses, and requiring a piece of land to place and foster them on, having the consent of my husband, Don Miguel de Pedroreno, to petition the superior authority, the ownership to a place for the above purposes, I ask that your Excellency be pleased to grant me the place known by the name of "El Cajon," belonging to the Mission of S. Diego, which place is occupied by the Mission with a small quantity of cattle; accompanying herewith an information from the Reverend Father Vicente Olibas, actual minister of the said Mission, and who is charged with the secular revenues of the same, and also of the first Alcalde of the town, all for the purpose of avoiding delay in the necessary steps; and that should your Excellency deem it proper, grant me the title of ownership as corresponds. Wherefore, I ask and supplicate that your Excellency will deign to accede to my

request, whereby I shall receive a favor. Not accompanying the plan of the land in consequence of its not being furnished; but I promise to present it hereafter; accepting the admission of this present petition upon common paper, there being no stamped as corresponds, stating that this is not done for an evil design.

MA. ANTA. ESTUDILLO DE PEDRORENO.

Port of San Diego, Nov. 11th, 1844.

Monterey, Dec. 4th, 1844.

Let the Secretary of the Department report.

MICHELTORENO.

Most Excellent Senor Governor:

According to the good information accompanying this Espediente, it appears to be meritorious that the land might be granted to Senora Donna Maria Antonia Estudillo de Podroreno, inasmuch as she relinquishes for the benefit of the Mission of San Diego the sum of money due by the said Mission to her husband, Don Miguel Pedroreno, and although I do not know how much it might amount to, it is the only way, according to information received from the Padre, that this can be paid. The only inconvenience that can be offered in the execution of the grant under solicitation is that D. Manuel Dias has received a provisional title to the same land, and as this gentleman is not here, further step cannot be had so as to see if anything can be turned out in favor of the Mission, she being the proprietress thereof. But the superior determination of your Excellency will be better suited.

Monterey, December fourth, eighteen hundred and forty-four.

MANUEL JIMENO.

Monterey, December 4th, 1844.

It being that Mr. Diaz and Mrs. Pedroreno claim the same tract of land, when both of them shall be able to come together, they shall appear and plead before the Supreme Departmental Government, in order that they may be attended to according to justice.

MICHELTORENO.

Mission of San Diego, Nov. 11th, 1844.

With regard to this application made by Donna Maria Antonia Pedrorena, to procure the ownership of the place Del Cajon, belonging to this Mission under my charge, I have to state that the place she solicits is occupied with a few cattle belonging to the Mission. And in case of making a grant, she, the petitioner, should be preferred, because her husband has always been employed by me, and has contributed for the support of the Mission, and it could be granted for the debt that the Mission owes to him, which is all that can be paid without prejudice, because she, the petitioner, binds herself not to prevent the cattle of the Mission from remaining at the place. This is all I can inform you in relation to the present peti-

tion. Given in the same, on the same day, month, and year, on this common paper, there being no stamped that corresponds.

F. VICENTE OLIBAS.

The undersigned, first Alcalde of this town, and at the request of Donna Maria Anta. Estudillo de Pedroreno, certifies that the place of the Mission of San Diego, called El Cajon, is now occupied by a few cattle belonging to the Mission, and they are in no way prejudiced by granting the petitioner, and in attention to this, that she does not intend to prevent the cattle of the Mission from remaining on said rancho. On the other hand, it would be advantageous that there should live in the vicinity persons having property, in order that this place again flourish.

God and liberty. San Diego, Nov. 12, 1844.

JUAN MA. MARRON.

Most Excellent Senor Governor:

Manuel Diaz, of this vicinity, before your Excellency with due respect appears, and says, that I find the Rancho of Cajon to be quite distant from my place of residence, and in consideration of its being more useful to Donna Ma. Anta. Estudillo de Pedroreno, who lives in San Diego, that she should possess said land, I relinquish all right that I have to it, either in the capacity of first petitioner thereof, or as proprietor, in virtue of the title which General Micheltoreno granted me; provided, that the Supreme Government of the Department deign to grant unto me some other land, that I may petition when it may suit my convenience, by which I will receive a favor and justice.

MANUEL DIAZ.

Monterey, August 10th, 1845.

There is no stamped paper.

(The following order was written on the margin of the above petition.)

Angeles, September 12th, 1845.

Let this be attached to the Espediente, at the instance of Dona. Maria Antonia Estudillo de Pedroreno, as petitioner for the land of Cajon.

Angeles, September 23d, 1845.

Having seen the petitioning at the commencement of this Expediente, the information from the R. P. Minister of the Mission of San Diego, and the 1st Alcalde of the port of the same name, the relinquishment made by Don Manuel Diaz, in favor of the party interested, of the right he had to said land under solicitation, with all other matters connected therewith, in conformity with the laws of the 18th August, 1824, and the regulations of the 21st November, 1828, I hereby declare Dona Maria Antonia Estudillo de Pedrorena owner of the land called Cajon, immediate to the aforesaid Mission

of San Diego, and administrated upon the respective plan, under condition that the grantee shall pay to Don Miguel de Pedrorena the sum of dollars that said Mission owes to him, and that she shall not injure the property that it actually has upon the land that is granted and that naturally continue to procreate.

Let corresponding title be issued and kept, the Espediente to submit it to the approval of the most Excellent Departmental Assembly. Pio Pico, Governor pro. tem. of California, thus I command, decree, and sign, to which I give faith.

PICO.

8.

Most Excellent Sir:

The Commissioner on Vacant Lands having seen and examined with possible care the proceedings as appear from this Espediente, find that they are had in total accordance with the laws on the subject; and that they were sufficient in order that the Supreme Government, in use of its powers, should grant in ownership the Place del Cajon to Donna Ma. Antonia Estudillo de Pedrorena. Therefore the Committee submit for the deliberation of your Excellency the following proposition:

The Commission approves of the grant made by the Superior Government of the Department, of the place called El Cajon, in favor of Dona Maria Antonia Estudillo de Pedrorena, in the title issued bearing date 23d of this month, in entire conformity with the eighteenth of August, 1824, and the regulation of November 21st, 1828.

2d. The party interested will take care to comply with the requisites as set forth in Article 12th of the said regulation of 1828, in order that she may dispose of freely the property in this part.

Commission Room, City of Los Angeles, September 30th, 1845.

NARCISO BOTELLO.

FRANO. DE LA GUERRA.

Angeles, October 3d, 1845.

At a session of this day the two propositions that conclude the foregoing opinion, was approved by the Most Excellent Departmental Assembly. Ordered, that the original Expediente should be returned to the Most Excellent Governor for his convenient uses.

PIO PICO,
President.

AGUSTIN OLVERA,
Secretary.

On the 3d of October a copy of this was delivered to the party interested.

This title remains recorded in the registry that corresponds.

I certify the foregoing to be a true and correct translation.

Office of the Secretary to the U. S. Land Commission, &c. San Francisco, this 24th of February, 1854.

GEO. FISHER,
Secretary.

Filed in office June 10th, 1852.

GEORGE FISHER,
Secretary.

Document "E," annexed to the Deposition of Santiago Arguello.

Sello Primero Ocho Pesos.

Habilitado provision almente por la Aduana maratima del Puerto de Monterey, en el Departamento de las Californias, para los anos de mil ocho cientos cuarenta y cuatro y mil ocho cientos cuarenta y cinco.

MICHELTORENO.
PABLO DE LA GUERRA.

Pio Pico primer vocal de la Exma Asamblea
[ADA. MARITA. DE MONTY.] y Gobernador interino del Departamento de las Californias.

Por Cuanto Dona Maria Antonia Estudillo de Pedrorena, ha pretendeda para su beneficio personal y el de sa familia el terreno conocido con el Nombre del Cajon, inmediato a la Mision de San Diego, practicadas previamente las avereguaciones concernientes segun lo dispuesto por leyes y reglamentos de la materia usando de las facultadas que me son Conferidas a Nombre de la Nacion Mejicana, en decreto de este dia he venido en concederle el terreno mencionado, declarandole la propiedad de el por las presentes letras, a reserva de la aprobacion de la Exma Asamblea Departamental, y bajo las condiciones siguientes.

1o. Podra cercalo sin perjudicar las travesias, caminos y servidumbres, lo disfrutara libre y exclusivamente destinandolo al uso y cultivo que mas le acomode, pero dentro de un ano fabricara casa en el y estara habitada.

2o. Pagara la agraciada a Dn. Miguel de Pedrorena la Cantidad de Pesos, que la Micion de San Diego le adenda, cuyo pago hara constar en los documentos al efecto necesarios, y no perjudicara en manera alguna los bienes de la Mision de San Diego, que actualmente existen en el terreno que se le he concededo y los que naturalmente, vagan procreando, reservando el derecho a la referida Mision de Mantener en dicho terreno los expresados bienes mientras dure renuoda su comunidad.

3o. Solicitara del juez respectivo le de la posecion juridica en virtud de este despacho por el cual se demarcaron los linderos con las majonerias necesarios.

4o. El terreno de que se hace donacion es el que espresa el deseno qe. corre agregado al Espediente respectivo, pero de ninguna manera perjudicara la agraciada a las personas que dentro de sus linderos tengan tierras legalmente concedida. El juez que la posecion lo hara meder con arreglo a ordenanga, y dara avis a este Gobierno del numero de sitios de ganado mayor que continue.

En consecuencin mande que teniendose por forma y valedero el presente titulo, se tome razon de el en el libro a que corresponde, y se entregue a la interesada para su resguardo y demas fines.

Dado en la Ciudad de los Angeles a veinte tres de Setiembre de mil ocho cientos cuarenta y cinco.

(Signed) PIO PICO.
(Signed) JOSE M. COVARRUBIAS,
Srio.

Queda tomada razon de este Superior Despacho en el libro respectibo.

Angeles fecha ut supra.

(Signed) COVARRUBIAS.

El Exmo Sor Gobernador dispone se tome razon de este titulo en la Sub Prefectura de San Diego.

(Signed) COVARRUBIAS.

San Diego, Octe. 11, de 1845.

Queda tomada razon de este Superior Despacho afs. 1o. y vuelta del libro respectivo.

S. ARGUELLO.

Filed in office, October 14th, 1852.
(Signed) GEO. FISHER,
Secretary.

Stamp Third, Eight Dollars.

Personally authorized by the Maritime Custom House of the Port of Monterey, in the Department of the Californias, for the years 1834 and 1835.

(Signed) MICHELTORENO.
(Signed) PABLO DE LA GUERRA.

[SEAL.] Pio Pico, Senor Member of the Most Excellent Assembly, and Governor pro tem of the Department of the Californias.

Whereas, Mrs. Maria Antonia Estudillo de Pedrorena has petitioned, for her personal benefit and those of her family, for the tract of land known by the name of "Cajon," near the Mission of San Diego, the relative examination, as required by the laws and regulations in relation to the matter having been previously had, in the exercise of the authority upon me in the name of the Mexican nation by a decree of this day, I have determined to grant to her the said tract of land, declaring her by the present letters the ownership thereof, subject to the approval of the Most Excellent Departmental Assembly, and under the following conditions:

1st. She may enclose it without prejudice to the roads, highways, and rights of way. She shall enjoy it freely and exclusively, put-

ting it to the use and cultivation that may be most convenient to her, but within one year she shall erect a house upon it, and it shall be inhabited.

2d. The grantee shall pay to Don Miguel Pedrorena the amount of money which the Mission of San Diego owes to him, which payment shall be made to appear on the vouchers necessary for that purpose, and she shall not injure in any manner the stock of the Mission of San Diego, which at present exists upon the land which has been granted to her and its natural increase, reserving to the said Mission the right to continue upon said land the said stock as long as it may continue as a community.

3d. She shall solicit the proper judges to give her judicial possession by virtue of this patent, by whom the boundaries shall be designated by the necessary landmarks.

4th. The land of which grant is made is that which the plot attached to the respective Espediente expresses, but in no way shall the grantee disturb the persons who have lands legally granted within her boundaries. The judge who may give the possession shall cause it to be measured in conformity with law, and shall inform the government of the number of sitios de ganado mayor it contains.

Therefore I order that the present being held firm and valid, a record thereof be made in the corresponding book, and that it be delivered to the interested party for her security and other persons.

Given at the City of Los Angeles, September 23d, 1845.

(Signed) PIO PICO.

(Signed) JOSE MA. COVARRUBIAS,
Secretary.

The most Excellent Governor orders that this title be recorded in the office of the Sub-Prefect of San Diego.

COVARRUBIAS.

San Diego, October 17th, 1845.

The superior patent remains on record on folio 1st, and its reverse, of the respective book.

(Signed) S. ARGUELLO.

I, George Fisher, Secretary to the United States Land Commission to ascertain and settle the private land claims in the State of California, hereby certify that the foregoing is a faithful and correct translation of a Spanish document in Case No. 262, wherein Thomas W. Sutherland, Guardian, &c., claims the Rancho Cajon now on file in this office. In testimony whereof I have hereunto signed my name.

Office of the Secretary of the above-mentioned commission.

GEO. FISHER,
Secretary.

Document F, annexed to the Deposition of Santiago Arguello.

Pio Pico Gobernador Ynterino del Departamento de las Californias.

La Exma Asamblea Departamental en sesion de hay ha decretado lo sizuiente.

1. Se aprueba la concesion hecha por el Superior Gobierno de este Departamento del paraje nombrado el Cajon, en favor de la Senora Dona Maria Antonia Estudillo de Pedrorena in titulo librado fha 23 del Corriente mes de entera conformidad con la ley de 18 de Agosto de 1824, y el reglamento de 21 de Noviembre de 1828.

2. La interesada Ciudara de cumpliv con los requisitos previnidos en el articulo 12, del citado reglamento de 828 para poder disponer libremente de su propiedad en esta parte.

Y paro resquardo de la parte de la Senora Maria Antonia Estudillo de Pedrorena lo hago asi saber. Dado en la Ciudad de Los Angeles atres de Octubre de mil ochocientos cuarenta y cinco en este papel comun por falta del sellado.

(Signed) PIO PICO.

(Signed) JOSE MA. COVARRUBIAS,
Srio.

Filed in office Octobre 14th, 1852.

(Signed) GEORGE FISHER,
Secretary.

Pio Pico, Governor for the time being of the Department of California.

The Honorable the Departmental Assembly, at the session of this day has decreed the following:

1st. That the grant made by the Superior Government of this Department, for the place called Cajon, in favor of Dona Maria Antonia Estudillo de Pedrorena, on title issued on the 23d day of the present month, be approved fully, in accordance with the Law of August 18th, 1824, and the regulations of 21st November, 1828.

2d. That the said Dona Maria Antonio Estudillo de Pedroreno shall take care to comply with the requisites set forth in Article 12th of the said regulations of 1828, in order that she may freely use the property in this part.

And for the safety of said Dona Maria Antonia Estudillo de Pedrorena, thus I decree. Given at the City of Los Angeles, on the third day of October, 1845. On this common paper for want of stamped paper.

PIO PICO.

JOSE MA. COVARRUBIAS,
Srio.

I certify the above to be a true and correct translation.

GEORGE FISHER,
Secretary.

Office of the Secretary of the U. S. Land Commission,
San Francisco, Feb. 24th, 1854.

Filed in office.

Document "C. No. 2," annexed to the deposition of Santiago Arguello.

"H. H."

Testimonio del paraje o Espediente de posecion practicada en favor de la Senora Dona Maria Antonia Estudillo de Pedrorena del sitio conocido con el nombre del Cajon. Ano de 1846.

En el Pueblo de San Diego Territorio de California a las nueve dias del mes de Setiembre de mil ochocientos cuarenta y seis, amente a la solicitud de la Senora Dona Ma. Anta. Estudillo de Pedrorena a fin deque selede la correspondiente posesion del sitio y Rancho llamadose el Cajon concedio por el Exmo. Sor Gobernador de este Departamento y en virtud de no haber en el pais un Agrimensor examinado que reuneda el enunciado terreno; pasese pa. mi y los testigos de mi asistencia al espresado sitio, y con total Arreglo a las primeras medidas, que sean practicadas cuyo deseno agrego al expediente la interesada, procedase a das la posecion indicada arreglandose al titulo o despacho que se le ha Conferido por el Gobierno con fecha veinte y tres de Setiembre de mil Ochocientos cuarenta y cinco y aprobacion de la Exmo. Asamblea Departmental con fecha, 3de Octobre de mil ochocientos cuarenta y cinco. El Ciudadano Santiago E. Arguello, Juez 1o. de Paz y de 1a. Ynstancia de este referido Pueblo asi lo dispuse. Mande y firmi con los testigos de mi asistencia este papel comun por falta del Sellado; Santiago E. Arguello; Assista., Jose Anto. Arguello; Assista., Jose Anto. Gongora; En el mismodia mes y Ano cite al Mayor Domo del Rancho, de Senora Dona Apololinario Lorenzana Comounica Colindante el que manifestandale el objeto a que, me dirizin al punto del Cajon pues iba a remidirlo y poner en pacifico posecion de el a la Senora Dona Maria Antonia Estudillo de Pedrorena, y nohabiendo objeccion por parte del, Mayordomo, que precensio Como Colindante lo ponzo por diligencia que autoriso y firmo con los testigos de mi asistencia segun derecho, Santiago E. Arguello; Assista., Jose Antonio Arguello; Assista., Jose Antonio Gongora. En el Parage del Cajon a dies de Setiembre de mil ochocientos cuarenta y seis, yo el propio Suez para la practica de estas mismas diligencias y en presencia del Mayordomo quien no manifesto oposicion ninguna que suspendiesen las medidas nombre doso ficiales cordeleros que por no saber firmar se omitieron sus nombres, a quienes les hize saber su nombramiento, el que aceptaron bajo dejuramiento que otorgaron ofreciendo desenipenar fielmente su encargo lo que autorizo y firmo con los testigos de mi asistencia segun derecho—Santiago, E. Arguello; Asista., Jose Antonio Arguello; Assista., Jose Anto. Gongora. En el mismo dia mes y ano estando en el paraje del Cajon y el Mayor domo de la Senora Dona Apolonario Lorenzana, recono-

ciendo ambos por sus linderos a efecto de verificar los medidas y posecion que corresponde a la Senora Da. Ma. Antonia Estudillo de Pedrorena del sitio nombrado el Cajon previos las requisitos de ley y estando ante mi y los testigos de asistencia y los oficiales Cordeleros, hize medio un Cordel que tenia cien varas y acia a sus estremos unos saucos de madera previa observancia y Calculo por mi disposicion se tiro el Cordel-empesando desde la parte mas al E. mil varas mas adelante de la mina donde se puso mojoneria de piedras con rumbo al Oeste, se midieron cinco mil varas hasta las casas, y desde las casas hasta la mesa Con rumbo Oeste trienta grado, sur se midieron quince mil varas poniendo la mojoneria al empesar la Mia de la avena, tomando esta medida Como el Major larga del Rancho, de E. a O. y para cua drarlo por ser asi la configuracion del terreno se tomo la parte mas practicable, que es desde las casas rumbo al Sur, dies mil varas—poniendo la mojonera al pie de una lomita y de las casas para el Norte se midieron siete mil quinientos varas hasta la Canada de la Cuesta en el Camino real de Sta. Ysabel donde se puso mojoneras de piedra dentro de cuyas linderos quedan los parages que gozan sin interrupcion la india Ynes, y Dona Apolinario Lorenzana quedando en fabor del Rancho once sitios de ganada mayor segun el mejor calculo que se pudo hacer, con lo que se concluyeron las medidas de este sitio a satisfacion de la intereseda y colindantes, en cuya estencion de terreno se compone los once sitios de que se hace donacion en su titulo concedido a la Senora Dona Ma. Antonia Estudillo de Pedrorena a quien ordene pusiese las correspondientes mojoneras en los puntos donde corresponde, y Marco en Senal de posecion, y quedo entendida, lo que pongo por diligencia que autorizo y firmo con los testigos de asistencia segun derecho—Santiago E. Arguello; Asista., Jose Anto. Arguello; Asista., Jose Anto. Gongora; San Diego, Setiembre once de mil ochocientos cuarenta y seis; desde testimonio a la parte de las presentes diligencias en papel comu por falta del sellado que corresponde; Santiago E. Arguello, Juez 1o. de Paz y de 1a. Instancia de este Pueblo y su jurisdicion asi lo decrete mande y firmi por ante los testigos de mi asistencia segun derecho—Santiago E. Arguello; Asista., Jose Anto. Arguello; Asista., Jose Anto. Gongora.

Concuerda con su original a que me refiero que existe en el libro de Ynstrumentos Publicos llebado an ambos Juzgados en el presente ano, esta fielmente sacado y concertado escrito en estas fojas de papel comun por falta del sellado; que autoriso y firmo con los testigos de mi Asistencia en el Pueblo de San Diego a once de Setiembre de mil ochocientos cuarenta y seis. Doy fe.

En testimonio de verdad.

(Signed) S. E. ARGUELLO.

Assa.,
JOSE ANTO. ARGUELLO.
Assa.,
JOSE A. GONGORA.

Filed in office, October 14th, 1852.
(Signed) GEO. FISHER,
Secretary.

Authentic copy regarding the place or espediente of possession given in favor of the Dona Maria Antonia Estudillo de Pedrorena, of the place known by the name of the Cajon.

Year of 1846.

In the village of San Diego, Territory of California, on the ninth day of September, one thousand eight hundred and fifty-six, in compliance with the solicitude of the Dona Ma. Anta. Estudillo de Pedrorena, to the end that shall be given the corresponding possession of the place and rancho called the Cajon, conceded by his Excellency the Governor of the Department, and in consequence of there being no regular surveyor in the country who can measure the said land, I will proceed, together with my assistant witnesses, to the above-mentioned place, and in strict conformity with the first measures that were made, a map of which the interested party has attached to the espediente, I will give the possession indicated: serving as a guide the title or despatch which has been given her by the Government, bearing date the twenty-third of September, A. D. 1845, and approved of the Most Excellent Departmental Assembly, bearing date the third of October, A. D. 1845. I, the citizen Santiago E. Arguello, First Justice of the Peace and Judge of First Instance of this above-mentioned village, thus disposed, commanded, and signed with the witnesses of my assistance, on this common paper, for want of sealed paper.—Santiago E. Arguello. Assistance, Jose Antonio Arguello. Assistance, Jose Antonio Gongora.

On the same day, month, and year, I cited the steward of the ranch of lady Dona Apolinario Lorenzana, being the only person whose lands were contiguous to that in question. The steward appeared, and, making known to him the object which led me to the place of the "Cajon," as I was going to remeasure it, and put in peaceable possession of it the lady Dona Maria Estudillo de Pedrorena; and there being no objection on the part of the steward, who was present as adjoining land owner, I noted this as part of the proceedings, which I authorize and sign with the witnesses of my assistance, according to law.—Santiago E. Arguello. Assistance, Jose Antonio Arguello. Assistance, Jose Antonio Gongora.

In the place Cajon, on the 10th September, A. D. 1846, I, the said Judge, in order to carry on those same proceedings, and in the presence of the steward, who did not put any objection, the measurement being continued, I named two cord-bearers, who, as they did not know how to sign their names, they were omitted. I made them acquainted with their appointment, which under oath they accepted, offering to discharge the duties of their employment faithfully, which I gave authority to, and signed with the witnesses of my assistance,

according to law.—Santiago E. Arguello. Assistance, Jose Anto. Arguello. Assistance, Jose Anto. Gongora.

On the same day, month, and year, being at the place of the "Cajon," and the steward of the lady Dona Apolonario Lorenzano, and each party knowing their boundaries, for the purpose of carrying into effect the remeasurement and possession which corresponds to the lady Da. Ma. Anta. Estudillo de Pedrorena, of the place called the Cajon, all the legal steps having been first had, and being present before me, the witnesses of assistance, and cord-bearers, I caused a cord to be measured of one hundred varas in length, and tied to its extremities two wooden stakes. Previous observation and calculation, by my order the cord was extended. Beginning from the part most to the E. one thousand varas in advance of the mine, where a landmark of stone was placed in a westerly direction, there were measured five thousand varas to the houses, and from the houses to the table land, with direction west, thirty degrees south, there were measured fifteen thousand varas; placing the landmarks at the commencement of the table or mesa of the aveno or the oats, taking this measurement as the greatest length of the rancho from E. to W., and to square it, that being the figure of the land, the most practicable part is taken, which is from the houses; direction to the south ten thousand varas. Placing the landmark at the foot of a little hill, and from the houses north, there were measured seven thousand five hundred varas, to the valley of the declivity in the main road of Santa Ysabel, where a landmark of stones was placed, between which boundary lines remain the places which are enjoyed, without interruption, by the Indian woman Ynes and Dona Apolonario Lorenzano, remaining to, of the rancho eleven leagues of land, according to the greatest calculation that could be made, with which were concluded the measurement of this place, to the satisfaction of the said Antonia Estudillo de Pedrorena, and the adjoining land-owners, in which extension of land are comprised the eleven leagues of which donation was made in the title conceded to the lady Dona Maria Antonia Estudillo de Pedrorena, who I ordered to place to corresponding landmarks at the points where they belong, and which I marked as a sign of possession, and she understood me, which I give authority to and sign with the witnesses of my assistance, according to law.

SANTIAGO E. ARGUELLO.

Assistance, JOSE ANTO. ARGUELLO.
Assistance, JOSE ANTO. GONGORA.

San Diego, eleventh day of September, A. D. 1846.

Let authentic copy be given to her of these present proceedings on common paper for want of the corresponding sealed paper.

SANTIAGO E. ARGUELLO.

First magistrate and Judge of first instance of this village and its

jurisdiction, and this I decreed, commanded and signed before the witnesses of my assistance, according to law.

SANTIAGO E. ARGUELLO.

Assistance, JOSE ANTONIO ARGUELLO.
Assistance, JOSE ANTO. GONGORA.

This agrees with its original, to which I have referred, which exists in the Book of Public Instruments, carried out in both offices, that of magistrate, and Judge of 1st Instance, in the present year; it is faithfully copied and corrected, written on these leaves of common paper for want of sealed paper, to which I give authority, and sign with the witnesses of my assistance, in the village of San Diego, on the eleventh of September, one thousand eight hundred and forty-six, which I certify.

In testimony whereof

S. E. ARGUELLO.

Assta. JOSE ANTO. ARGUELLO.
Assta. JOSE ANTO. GONGORA.

I certify the foregoing to be a true and correct translation. Office of the Board of Comm., &c., San Francisco, the 23d day of July, 1854.

GEO. FISHER,
Secretary.

Filed in office Sept. 8th, 1852.

GEO. FISHER,
Secretary.

VICTORIA PEDRORENA, YSABEL PEDRORENA, MIGUEL PEDRORENA, and HELENA PEDRORENA, Heirs of Miguel de Pedrorena and Maria Antonia Estudillo Pedrorena, deceased,

v.

THE UNITED STATES.

El Cajon, 11 Square Leagues.

This claim was originally filed in the name of Thomas W. Sutherland, as guardian of the said petitioners, but at the submission of the case, leave was granted to substitute the names of the children instead of the name of their guardian. The said petitioners deduce title to the lands in question by virtue of a grant made to the mother by Governor Pio Pico, and which bears date the 23d of September, 1845. This grant has been proven to be genuine, and its due execution satisfactorily established. The approval of said grant by the Departmental Assembly, on the 3d day of October, A. D. 1845, has also been satisfactorily shown. The petitioners have also placed on file a duly authenticated record of judicial measurement, made on

the 11th of September, A. D. 1846. It is proved by the deposition of Santiago Arguello, that he knew that Maria Antonia Estudillo de Pedrorena, the original grantee, settled upon the rancho called "El Cajon," with her husband, in the year 1845; that they built houses, and corrales for their stock upon it; that they occupied the land with their family, from that time until the time of their death, and that they annually large crops therefrom. He further states, in reply to question by the law agent, that they raised large quantities of grain; and during the lifetime of the grantee, it was the best cultivated rancho in the country about San Diego. It is also in proof, that the said Miguel Pedrorena died in March, 1850, and that Maria Antonia Estudillo de Pedrorena died in the spring of 1851, and that the petitioners in this case are their children. The evidence in this case shows superior merits, so far as the performance of conditions are concerned. It appears that the grantee, in company with her husband, moved on the rancho the same year in which the grant was made; that they made large and valuable improvements; besides, they cultivated on a large scale, raising large quantities of grain, and the witness testifies that it was one of the best-cultivated ranchos about San Diego. They continued to occupy it in the same way up to the time they both died, the one dying in 1850, and the other dying one year afterwards, leaving their children, at that time minors, to inherit their property. The grant in this case is very extensive, being the maximum which the law allowed to be given to one person. And the fact that the grant was made to the wife instead of the husband, is a little singular, while the wife, under the Mexican laws, could acquire and hold property in her own right. This is the first case which has come under my notice where a grant was made to the wife in her own right, while her husband was still living. The history of this case, as revealed in the traced copy of the Espediente, which is on file, as evidence in this case, shows that the rancho called "Cajon" had been previously granted to one Manuel Diaz, previous to the grant made to Maria Antonia Estudillo; but it also appears that he relinquished all right which he might have under such provisional grant. It further appears, that the rancho called El Cajon belonged to the Mission of San Diego, and that said Mission occupied the same with stock, when Maria Antonia applied for the grant in question. The Espediente also shows that said Mission was largely indebted to Miguel de Pedrorena, the husband of the said grantee, for services which he had rendered; and, according to the statement of the Rev. Father of the Mission, they had no means of paying this debt otherwise than allowing the wife of their creditor to receive a grant of the said rancho, on the condition that she should pay over to her husband the sum due him by the Mission. The grant was made, therefore, in conformity with the foregoing understanding, and an express condition was attached, to the effect that the grantee should pay to Miguel Pedrorena the amount of

money which the Mission of San Diego owed him at that time; and it was further provided, that the payment should be made appear in the vouchers necessary for that purpose. No voucher corresponding with this condition of the grant has been produced, but I think it may be presumed that the grantee compromised the claim with her husband on terms mutually satisfactory. The most difficult question in this case is the location and identity of the land claimed. The only description of the land granted, as given in the body of the grant, is in the following words: "The tract of land known by the name of Cajon, near the Mission of San Diego. The 4th condition annexed to the grant is in the following words, to wit: The land of which a grant is made is that which the plat attached to the Espediente expresses, but in no way shall the grantee disturb the persons who have lands legally granted within her boundaries. The judge who may give the possession shall cause it to be measured in conformity with law, and shall inform the government of the number of sitios de Ganado Mayor it contains." It is clear, from the language used in this condition, that the grant was intended to be by metes and bounds, without regard to quantity, and that the bounds were described on the map referred to in the condition. The officer making the measurement is enjoined to make it in conformity with law, but the principal object which the government had in view was to ascertain the quantity which the limits, as expressed on the map, contained. This brings us to the consideration of the judicial measurement, a record of which has been filed in the cause—a question of considerable difficulty, and one which has never either been discussed by counsel or decided by this commission, as at present constituted, would be raised by the record of judicial measurement which has been filed, if such measurement was essential and indispensable for the segregation of the land granted from the public domain.

The record shows that the judicial possession of the land in question was given on the 11th day of October, 1846. This presents the question, whether the judicial act of measurement made at that period of time was of any binding force or effect, and whether the party could, at that time, do any act that could in any way change the condition of this claim. But as this record, if admitted, could in no way aid the description given in the grant, and as it is evident the officer who made the measurement did not confine himself to the boundaries as laid down on the map, the question, therefore, of its competency is wholly immaterial and need not be decided. Besides, the object of the measurement required was for the purpose of ascertaining the quantity of land embraced within the boundaries already defined by the map, which by reference is made part of the grant. It may, however, be stated, that the mode of measuring the lands adopted by the officer, for the purpose of ascertaining the exact quantity contained within the limits, as delineated on the map, was calculated to embrace more land than those limits contained. He

proceeded to take the greatest length of the rancho from east to west, and then square it. By placing the dividers on the map, and forming the square from the extreme points made in the measurement, the square so formed would at several points embrace land entirely without the boundaries, as laid down on the map, and consequently would embrace a much larger quantity of land than was intended to be covered by the grant. The map referred to does not represent a tract of land in a square form, but the shape is irregular, and shows that the tract granted is surrounded by hills, and most likely is a valley, as an arroyo is represented on the map as running through the whole extent. The officer making the measurement represented the quantity to be eleven leagues; as the measurement from the manner of making it would necessarily embrace more land than lies within the limits of the map, it may safely be assumed that the quantity within those limits will fall short of the maximum of the law. The delineation of the land, and the natural objects, as laid down on the map, I think, identify and locate the rancho with sufficient certainty to enable the officer making the survey to define its limits with accuracy.

The petitioners, we think, are entitled to a decree of confirmation, and the same will accordingly be entered.

Filed in office, March 14th, 1854.

GEO. FISHER,
Secretary.

VICTORIA PEDRORENA, ISABEL PEDRORENA, MIGUEL PEDRORENA, and HELENA PEDRORENA, heirs of Miguel de Pedrorena and Maria Antonia Estudillo Pedrorena, deceased,

v.

THE UNITED STATES.

In this case, on hearing the proofs and allegations, it is adjudged by the Commission, that the claim in this case is valid, and it is, therefore, decreed that the same be confirmed.

The lands of which confirmation are hereby made, are known by the name of "El Cajon," are situated near the Mission of San Diego, and are the same upon which the said Miguel de Pedrorena, and the said Maria Antonia Estudillo de Pedrorena, resided in their lifetime, and are known and described as follows, to wit:—On the west, by the Sierra del Portugueze and Serro de la Mesa; and south, by the hills. Reference, for further description of the metes and bounds, to be had to the map, which forms a part of the traced copy of the espediente, and which is filed as evidence in the cause.

ALPHEUS FELCH,
THOMPSON CAMPBELL,
R. AUG. THOMPSON,
Commissioners.

And it appearing to the satisfaction of this Board, that the land hereby adjudicated, is situated in the Southern District of California, it is hereby ordered, that two transcripts of the proceedings and of the decision in this case, and of the papers and evidence upon which the same are founded, be made out, and duly certified by the Secretary; one of which transcript shall be filed with the Clerk of the United States District Court for the Southern District of California, and the other to be transmitted to the Attorney-General of the United States.

Office of the Board of Commissioners to ascertain and settle private land claims in the State of California.

I, George Fisher, Secretary to the Board of Commissioners to ascertain and settle the private land claims in the State of California, do hereby certify the foregoing forty-nine pages, numbered from 1 to 49 inclusive, to contain a true, correct and full transcript of the record of the proceedings, and of the decision of the said Board, of the documentary evidence and of the testimony of the witnesses upon which the same is founded, on file in this office in Case No. 262, on the docket of the said Board, wherein Thomas W. Sutherland, Guardian, &c., is the claimant, against the United States, for the place known by the name of El Cajon.

In testimony whereof, I hereunto set my hand and affix my private seal (not having a seal of office), at San Francisco, California, this thirtieth day of October, A.D. 1854, and of the Independence of the United States of America the seventy-ninth.

GEO. FISHER,
Secretary.

United States District Court, Southern District of California.

Clerk's Office, Los Angeles.

I, Charles E. Carr, Clerk of the District Court of the United States for the Southern District of California, do hereby certify that the foregoing 50 pages, numbered from 1 to 50, both inclusive, contain a full, true, and correct copy of Transcript No. , filed in this office, wherein Thos. W. Sutherland, Guardian, &c., are appellees, and the United States appellant, for "El Cajon."

In testimony whereof, I have hereunto set my hand and affixed the seal of said Court, at Los Angeles, California, the 20th day of December, A.D. 1855, and of the Independence of the United States of America the eightieth.

[SEAL.]

C. E. CARR,
Clerk.

United States District Court, Southern District of California.

Clerk's Office, Los Angeles.

THOMAS W. SUTHERLAND, Guardian, &c., Appellee, *ads.* The UNITED STATES, Appellant. } Docket No. 114. Transcript No. 262.

Be it remembered, that on the 28th day of September, A.D. 185 , in the District Court of the United States for the Southern District of California, the following proceedings were had, to wit:

A duly certified transcript of the proceedings and decision, and the papers and evidence, upon which the said decision was founded, of the Commissioners to ascertain and settle the Private Land Claims in the State of California, when sitting as a Board, in the case wherein Thomas W. Sutherland, Guardian, &c., is the Claimant, against the United States, for the place named "El Cajon," was received and filed, and docketed with No. 114, and is as follows, to wit:

(Vide page 1.)

Los Angeles, February 27th, 1855.

In case No. 114, Thos. W. Sutherland, Guardian, &c., for "El Cajon," the notice of appeal from the U. S. Attorney-General was filed.

(Vide page 3.)

Los Angeles, September 27th, 1855.

In same case the petition of the United States for review was filed.

(Vide page 3.)

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

Los Angeles, September 27th, 1855.

In the same case the answer of appellee was filed.

(Vide page 4.)

Los Angeles, September 28th, 1855.

In the same case, the opinion of the Court, confirming the claim, was delivered, and the decree entered.

(Vide page 5.)

Los Angeles, October 18th, 1855.

In the same case, on motion of P. Ord, U. S. Attorney, the order of appeal was filed.

(Vide page 7.)

Notice of Appeal.

Office of the Attorney-General of the U. S.,
Washington, 17th January, 1855.

THOMAS W. SUTHERLAND, Guardian, &c.,
v.
THE UNITED STATES. } 262.

You will please take notice that in the above case, decided by the Commissioners to ascertain and settle Private Land Claims in the State of California in favor of the claimant, and a transcript of the proceedings in which was received in this office, on the 30th day of October, 1854, the appeal in the District Court of the United States for the Southern District of California will be prosecuted by the United States.

(Signed) C. CUSHING,
Attorney-General.

Filed February 27th, 1855.
(Signed) C. E. CARR,
Clerk.

In the District Court of the United States for the Southern District of California.

Petition of United States for Review.

The Heirs of PEDRO PEDRORENO,
THOS. W. SUTHERLAND, Guardian, &c., Appellees,
ads.
THE UNITED STATES, Appellant. } No. 114. (Transcript, No. 262.)

To the Honorable Isaac S. K. Ogier, Judge.

The petition of Pacificus Ord, Attorney of the United States for the Southern District of California, for and in behalf of the United States, respectfully represents, that on the 10th day of June, A. D. 1852, the heirs of Pedro Pedrorena, by Thomas W. Sutherland, their Guardian, petitioned the Board of U. S. Land Commissioners, claiming eleven square leagues of land, called Cajon, in San Diego County, California. That, on the 14th day of March, A. D. 1854, the said Commissioners confirmed the said claim; that on the 8th day of November, A. D. 1854, the said Commissioners caused a transcript of their proceedings and decision in said cause to be filed in the office of the Clerk of this Court. That thereafter, on the 30th day of Oct., A. D. 1854, C. Cushing, Attorney-General of the United States, received a certified transcript of the proceedings and decision of said Board of Commissioners in said cause; that thereafter, to wit, on or about the 27th day of February, A. D. 1855, the said Attorney-General of the United States, filed, or caused to be filed,

a notice of intention of the United States to prosecute the appeal in said cause; that the land claimed is in the Southern District of California, and within the jurisdiction of this honorable Court.

Wherefore, their petitioner prays that the said appellees may be cited to answer this petition, and that the said decision of the said Commissioners may be reviewed, reversed, and set aside, and that this honorable Court will decree the said claim or title to be invalid, and for general relief.

(Signed) P. ORD,
Attorney of the U. States for the Southern District of California.

Filed Sept. 27th, 1855.
(Signed) C. E. CARR,
Clerk.

United States District Court for the Southern District of California.

Answer.

The Heirs of PEDRO PEDRORENA *ads.* THE UNITED STATES. } No. 114. (Transcript, No. 262.)

These respondents for answer to the petition filed in this cause answers and says. It is true that the land mentioned in said petition and in said transcript of the proceedings before the said Board of Commissioners lies within said Southern District of California, and within the jurisdiction of the Court.

But these respondents denies that their title to the said land is invalid, and aver that the same is valid, and pray that the decision of the said Board of Commissioners be affirmed, and their title be decreed to be valid.

(Signed) THOS. W. SUTHERLAND,
Guardian and Attorney for Respondents.
By E. O. CROSBY,
Of Counsel.

Filed Sept. 27th, 1855.
(Signed) C. E. CARR,
Clk.

United States District Court, Southern District of California.

VICTOREN PEDRORENO, YSABEL PEDRORENO, MIGUEL PEDRORENO, and HELENA PEDRORENO, heirs of MIGUEL DE PEDRORENO and MARIA ESTUDILLO PEDRORENO, deceased, Appellees, *ads.* THE UNITED STATES, Appellants. } No. 114. "El Cajon."

Decree.

This cause coming on to be heard at a dated term of this Court on

appeal from the final decision of the Commissioners to ascertain and settle private land claims in the State of California, under an act of Congress approved 3d of March, 1851, on a transcript of the proceedings and decision, and of the papers and evidence on which said decision was founded; and it appearing that said transcript has been duly filed according to law, and counsel for the respective parties having been heard, It is ordered, adjudged, and decreed that the decision of said Commissioners be and the same is hereby affirmed; and it is further ordered, adjudged, and decreed, that the claim of appellees is a good and valid claim, and that the same is hereby confirmed unto the tract of land known as "El Cajon," for a description of the boundaries of which reference will be had to the map and grant, copies of which are of file in the Record of this Court.

(Signed) M. HALL McALLISTER,
Judge Circuit Court U. S. for the Districts of Califa.

Filed Sept. 28th, 1855.
(Signed) C. E. CARR,
Clk.

In the United States District Court for the Southern District of California, Special Term.

Los Angeles, Sept. 1855.

THOS. W. SUTHERLAND, Guardian, App.,
ads.
THE UNITED STATES, Appt. } No. 114. Transcript No. 262.

Order of Appeal.

On motion of P. Ord, Attorney of the United States for the Southern District of California, it is ordered by the Court that an appeal be granted the United States to the Supreme Court of the United States, from the judgment of this Court against the United States in the above-entitled cause, rendered on or about the 28th day of Sept. A. D. 1855.

(Signed) P. ORD,
U. S. Dist. Atty.

Filed October 18th, 1855.
(Signed) C. E. CARR,
Clerk.
By J. W. ROSS,
Deputy.

United States District Court, Southern District of California.

Clerk's Office, Los Angeles.

I, Charles E. Carr, Clerk of the District Court of the United States for the Southern District of California, do hereby certify the